

# FRANK & ASSOCIATES, P.C.

ATTORNEYS AT LAW

500 Bi-County Boulevard, Suite 112N • Farmingdale, New York 11735

Tel: (631) 756-0400 • Fax: (631) 756-0547

E-Mail: nfrank@laborlaws.com

Neil M. Frank

Peter A. Romero

February 22, 2010

**VIA ECF AND FAX (631) 712-5766**

Hon. A. Kathleen Tomlinson  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

**Re: *Varney v. NYNEX Management Pension Plan et al.*, 07 CV 695 (LDW) (AKT)**

Dear Judge Tomlinson:

This firm represents Plaintiff in the above-referenced ERISA action. We write to respectfully request a short extension of Plaintiff's time to file a brief regarding the appropriate scope of discovery, from February 24 to March 10, 2010. There has been no prior request for a modification of the briefing schedule. Last week, Plaintiff's counsel received a copy of the administrative record concerning the decision to deny his claim for benefits. The extension we seek is necessary to afford Plaintiff's counsel time to review the record, which consists of approximately 400 documents.

The additional time is also necessary because of an usually heavy workload at Frank & Associates, a small firm with four attorneys, during the months of January and February. Among other obligations, Plaintiff's counsel had to prepare a post-trial brief, proposed findings of fact and conclusions of law following the arbitration of a Title VII discharge claim before the American Arbitration Association in the matter of *Bobby L. Gass v. Zimmer New England, Inc.*, Case No.: 13-160 02800-05. Reply papers in that matter are due March 10. Plaintiff's counsel must file exceptions and a brief with the NLRB by February 24, in connection with the appeal of an administrative decision in the matter of *Gateway Care Center and 1199 SEIU Healthcare Workers East*, New Jersey Region Case 22-CA-28708. At present, Plaintiff's counsel is preparing opposition to a motion for summary judgment in *Hird-Moorehouse v. Belgian Mission to the United Nations*, S.D.N.Y. 03-CV-9688. Plaintiff's counsel must also complete a pretrial order in the case *Laudadio v. Johanns*, E.D.N.Y. 07-782, and file a pretrial order by March 12 in the case, *Dantuono v. Davis Vision, Inc.*, E.D.N.Y. 07-2234.

Prior to writing this letter, Plaintiff's counsel contacted defendant's counsel, Frederick G. Sandstrom, Esq., who has consented to this request. Accordingly, Plaintiff respectfully requests that the briefing schedule be modified as follows:

- Plaintiff's brief to be served by March 10, 2010
- Defendant's opposition to be served by March 26, 2010
- Plaintiff's reply, if any, to be served by April 2, 2010

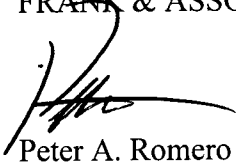
**FRANK & ASSOCIATES, P.C.**

Hon. A. Kathleen Tomlinson  
February 22, 2010  
Page 2

Thank you for your time and attention to this matter.

*Respectfully submitted,*

FRANK & ASSOCIATES, P.C.

A handwritten signature in black ink, appearing to read "Peter A. Romero", is written over the printed name.

cc: Frederick G. Sandstrom, Esq.  
via ECF and fax (202) 778-5499